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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/976,880	10/11/2001	Margaret Motamed	EFIM0070C	2558

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EXAMINER	
ROGERS, SCOTT A	

ART UNIT	PAPER NUMBER
2625	

DATE MAILED: 05/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/976,880	MOTAMED, MARGARET	
	Examiner	Art Unit	
	Scott A. Rogers	2625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *21 February 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-19* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-19* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

Applicant's arguments filed 21 February 2006 have been fully considered but they are not persuasive. Applicant argues that Kerschner does not describe or suggest selectively calibrating a scanner during a normal scan of an object, but instead only describes calibrating a scanner before or after a normal scan of an object. The examiner disagrees as the claim language of selectively calibrating "during a normal scan of an object" is broad enough to read on a calibration routine even if that routine is only part of a normal scan operation as is the case in Kerschner. In other words the "normal scan of an object" or scan operation begins in Kerschner when the user initiates a scan by depressing the scan button 34 (col. 5, lines 28-31). The calibration process 74 is part of the normal scan operation.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1 and 11 are rejected under 35 U.S.C. 102(e) as being anticipated by Kerschner et al (US 5995243).

Referring to claims 1 and 11:

Kerschner et al disclose a method and apparatus for calibrating a scanner 12 using a calibration target 44 fixed to a scanning surface of said scanner and selectively calibrating said scanner with said calibration target during a normal scan operation of an object (see discussion in col. 5, with particular note of lines 28-33).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-2 and 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Watanabe (US 4831458) in view of Kerschner et al.

Referring to claim 1 and 11:

Watanabe discloses a method and apparatus for calibrating a scanner 2 using a calibration target 28 fixed to a scanning surface of said scanner and selectively calibrating said scanner with said calibration target in a adjustment or calibration mode (see abstract). While Watanabe teaches selectively calibrating the scanner, he does not disclose calibration during a normal scan operation of an object.

Kerschner et al discloses a method and apparatus for selectively calibrating a scanner with a calibration target during a normal scan operation of an object (see col. 5, lines 28-33).

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to have modified Watanabe in view of Kerschner et al to have included a feature whereby calibration of the scanner may be selected during a normal scan operation of an object in order to maintain calibration by preventing illumination reduction near each end of the detector and minimize intensity variations of the light source over time (see col. 6, lines 1-10 in Kerschner et al).

Referring to claims 2 and 12:

Watanabe discloses a platen (glass table 4) and calibration target (reference plate 28) comprising a width of approximately or equal to a length of or a width of said platen.

Claim 3 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Watanabe & Kerschner et al, as applied to claims 1 and 11 above, and further in view of Falk (6141120).

Referring to claims 3 and 13:

The combination of Watanabe & Kerschner et al teach the scanning calibration method and apparatus of claims 1 and 11, but fail to expressly disclose that "said calibration target comprises a Kodak Gray Strip, an IT8 target, or an equivalent manufactured calibration target".

However, Falk shows in figure 6, a diagram of a gray scale test strip (600), a standard test strip such as Kodak test strip comprising a plurality of gray scale patches (601), which reads on the above quoted limitation in claims 3 and 13 (see col. 5, lines 66 through col. 6, lines 5).

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to have modified the combination of Watanabe & Kerschner et al to employ Falk's Kodak test strip (600) because the standard test strip is scanned simultaneous with the scanning of calibration image (500) so that the test strip data (216) and the scanned calibration image data (215) are stored in the same data structure (218), given the express suggestion of Falk (see col. 6, lines 13-18).

Claims 4-5 and 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Watanabe & Kerschner et al, as applied to claims 1 and 11 above, and further in view of well known prior art.

Referring to claims 4-5 and 14-15:

The combination of Watanabe & Kerschner et al teach the scanning calibration method and apparatus in claim 1 and 11, but fail to expressly disclose that "the calibration target comprises a photograph on photographic paper" or that "the calibration target strip comprises a dye sublimation print on photographic paper or paper equivalent to photographic".

However, Official Notice is taken that the formation of calibration targets with a printer is well known in the prior art, and printers such as photographic printers and dye sublimation printers are also well known in the prior art.

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to have modified the combination of Watanabe & Kerschner et al to have formed the calibration targets as recited in the above quoted claim limitations using known types of printers in order to easily produce high quality calibration targets using off the shelf printer technology and allowing easy change or replacement of the calibration targets for the desired calibration result.

Claims 6 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Watanabe & Kerschner et al, as applied to claim 1 and 11 above, and further in view of Horowitz et al (US 4,525,071) and Gray et al (US 6,028,681).

Referring to claims 6 and 16:

The combination of Watanabe & Kerschner et al teach the scanning calibration method and apparatus of claims 1 and 11, but fail to expressly disclose that "said calibration target comprises a plastic material".

However, Horowitz teaches attaching a plastic coated bar code label (356), as depicted in figure 4, to a storage bin (4), which reads on "said calibration target comprises a plastic material" (see col. 5, lines 61-67).

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to have modified the combination of Watanabe & Kerschner et al in view of Horowitz to have employed a calibration target made of plastic material because use of bar code labels or calibration targets coated with plastic material allows for maximum durability, given the express suggestion of Horowitz (see col. 7, lines 39-41).

Horowitz however, does not expressly disclose "said plastic material having an adhering surface and a covering over said adhering surface such that the adhering surface allows the plastic material to adhere to part of the scanner when the covering is removed from the adhering surface".

However, Gray, as shown in figure 4, depicts a fragmentary perspective of a scanner with an adhesively attachable light monitor window tab, which reads on "said plastic material having an adhering surface and a covering over said adhering surface such that the adhering surface allows the plastic material to adhere to part of the scanner" (see col. 3, lines 3-6; col. 8, lines 55-67 through col. 9, lines 1-35). Further, Gray teaches that the that the cover (190) is coated on its side facing the under surfaces (181; 184) with a layer of weak adhesive bond, such that the protective cover (190) can be easily removed during the assembly of the light window tab (140) to the top of the carriage assembly (122), which reads on "when the covering is removed from the adhering surface" (see col. 9, lines 8-13).

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to have modified the combination of Watanabe, Kerschner et al, & Horowitz, (i.e. scanning calibration using a plastic coated calibration target) with Gray's adhesive light window tab (140) because the use of an adhesive light window tab (140) compensates for problems associated with a painted strip, given the express suggestion of Gray, (col. 2, line 10).

Claims 7 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Watanabe & Kerschner et al, as applied to claim 1 and 11 above, in

view of Horowitz et al & Gray et al, as applied to claim 6 and 16 above, and further in view of well known prior art.

Referring to claims 7 and 17:

Please refer to the corresponding rejection in claim 6 and 16, and further note that dye sublimation printing is well known in the prior art.

Therefore, at the time the invention was made, it would have been obvious to one of ordinary skill in the art to have modified the combination of Watanabe, Kerschner et al, Horowitz et al & Gray et al, to have formed a dye sublimation print onto the plastic material using a known dye sublimation printer in order to easily produce high quality calibration targets using off the shelf printer technology and allowing easy change or replacement of the calibration targets for the desired calibration result.

Claims 8 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Watanabe & Kerschner et al, as applied to claim 1 and 11 above, and further in view of Horowitz et al.

Referring to claims 8 and 18, the combination of Watanabe & Kerschner et al teach the scanning calibration method and apparatus of claims 1 and 11, but fail to expressly disclose "providing a calibration target having a protective coating"

However, Horowitz teaches of attaching a plastic coated bar code label (356), as depicted in figure 4, to a storage bin (4), which reads on "providing a calibration target having a protective coating" (see col. 5, lines 61-67).

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to have modified the combination of Watanabe & Kerschner et al

in view of Horowitz to have provided a calibration target having a protective coating because use of bar code labels or calibration targets coated with plastic material allows for maximum durability, given the express suggestion of Horowitz (see col. 7, lines 39-41).

Claims 9 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Watanabe & Kerschner et al, as applied to claim 1 and 11 above, and further in view of Gray et al.

Referring to claims 9 and 19

The combination of Watanabe & Kerschner et al teach the scanning calibration method and apparatus of claims 1 and 11, but fail to expressly disclose "the calibration target comprises decal paper".

However, Gray teaches of a tab (140) attached to the surface (181) using the adhesive material (188), which reads on "the calibration target comprises a decal paper" (see col. 8, line 65 through col. 9, line 1).

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to have modified the combination of Watanabe & Kerschner et al in view of in view of Gray's decal paper because use of decal paper compensates for problems associated with a painted strip, given the express suggestion of Gray (col. 2, line 10).

Claims 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Watanabe & Kerschner et al, as applied to claim 1 and 11 above, and further in view of Horowitz et al and well known prior art.

Referring to claim 10:

The combination of Watanabe & Kerschner et al teach the scanning calibration method and apparatus of claims 1 and 11, but fail to expressly disclose "a plastic non-reflective sleeve located proximate to a scanning surface for fixedly holding said calibration target in said sleeve ".

However, Watanabe teaches fixedly holding calibration target 28 located proximate to a scanning surface, Horowitz teaches attaching a plastic coated bar code label 356, and the use of clear plastic sleeves to hold labels and the like is well known in the art.

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to have modified the combination of Watanabe & Kerschner et al in view of Horowitz and the well known prior art to have employed a plastic, non-reflective sleeve to fixedly hold a calibration target located proximate to a scanning surface because the sleeve allows easy change or replacement of the calibration target and the plastic material allows for maximum durability (see Horowitz col. 7, lines 39-41).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott A Rogers whose telephone number is 571-272-7467. The examiner can normally be reached Monday through Friday 6:00am-2:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Moore can be reached at 571-272-7437.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to TC2600 Customer Service at 571-272-2600. Official correspondence by facsimile should be sent to 571-273-8300. The USPTO contact Center phone numbers are 800-PTO-9199.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SCOTT ROGERS
PRIMARY EXAMINER

09 May 2006